

STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

CURTIS J. DUXBURY
CAROL DUXBURY,

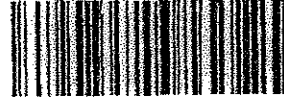
Plaintiffs

vs.

FIRST AMHERST DEVELOPMENT GROUP, LLC
RIDGE LEA ASSOCIATES, LLC
DELPHI AUTOMOTIVE SYSTEMS, LLC f/k/a
DELPHI CORPORATION

Defendants

COMPLAINT NOT SUM CERTAIN



145259

10/05/2011 12:19:24 PM

Receipt # 201195013

5 Pages

Wayne F. Jagow, Niagara County Clerk

Clerk: PC

COMPLAINT

Index No.:

ORIGINAL FILED

OCT - 5 2011

WAYNE F. JAGOW
NIAGARA COUNTY CLERK

Plaintiffs, CURTIS J. DUXBURY and CAROL DUXBURY, by and through their attorneys, Greco Trapp, PLLC, for their Complaint against the Defendant, respectfully allege:

1. Plaintiffs Curtis J. Duxbury and Carol Duxbury reside in Niagara County, New York.
2. Upon information and belief, First Amherst Development Group, LLC (First Amherst) is a domestic limited liability company duly licensed and authorized to conduct business in New York.
3. Upon information and belief, First Amherst has its principal place of business in Erie County, New York.
4. Upon information and belief, Ridge Lea Associates LLC (Ridge Lea) is a domestic limited liability company duly licensed and authorized to conduct business in New York.
5. Upon information and belief, Ridge Lea has its principal place of business in Erie County, New York.

6. Upon information and belief, Delphi Automotive Systems, LLC, formerly known as Delphi Corporation, (Delphi) is a foreign corporation duly licensed to conduct business in New York.

7. Upon information and belief, and at all times herein relevant, Delphi conducts business in Erie County, New York.

8. Upon information and belief, at all time herein relevant, Ridge Lea owned the premises located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

9. Upon information and belief, at all times herein relevant, First Amherst acted as the manager of the property located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

10. Upon information and belief, Delphi leased the premises, and conducted business at the property, located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

11. Upon information and belief, this action falls within one or more of the exceptions set forth in CPLR § 1602.

12. The incident which forms the basis of this Complaint occurred on November 12, 2008 at approximately 4:30 a.m. at 4238 Ridge Lea Road, Amherst, Erie County, New York.

13. On November 12, 2008, Curtis J. Duxbury (Mr. Duxbury) was employed by Durham Staffing, Inc. as a maintenance worker assigned to work at the property at 4238 Ridge Lea Road, Amherst, Erie County, New York.

14. Upon information and belief, Durham Staffing, Inc. contracted with Delphi to provide maintenance services to Delphi at the property located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

15. On November 12, 2008, at approximately 4:30 a.m., Curtis J. Duxbury (Mr. Duxbury) was lawfully on the premises located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

16. On November 12, 2008, at approximately 4:30 a.m., Mr. Duxbury tripped and fell on the sidewalk in front of the building located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

17. As a result of this incident, Mr. Duxbury suffered severe personal injuries.

18. As a result of this incident, Mr. Duxbury has lost wages, has suffered a diminution in his ability to earn income and will, upon information and belief, continue to lose wages in the future.

19. As a result of this incident, Mr. Duxbury has incurred medical expenses and will, upon information and belief, incur medical expenses in the future.

20. By reason of the foregoing, Mr. Duxbury has suffered injuries and damages in an amount which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over this matter.

**FOR A CAUSE OF ACTION AGAINST
FIRST AMHERST DEVELOPMENT GROUP, LLC**

21. Plaintiffs repeat paragraphs one through twenty above.

22. Upon information and belief, First Amherst, by and through its agents, servants and employees was negligent in its maintenance of the sidewalk and area surrounding the sidewalk located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

23. Upon information and belief, the negligence of First Amherst caused or contributed to the injuries and damages suffered by Mr. Duxbury.

**FOR A CAUSE OF ACTION AGAINST
RIDGE LEA ASSOCIATES, LLC**

24. Plaintiffs repeat paragraphs one through twenty above.

25. Upon information and belief, Ridge Lea, by and through its agents, servants or employees, was negligent in its maintenance of the sidewalk and sidewalk area located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

26. Upon information and belief, the negligence of Ridge Lea caused or contributed to the injuries and damages suffered by Mr. Duxbury.

**FOR A CAUSE OF ACTION AGAINST
DELPHI AUTOMOTIVE SYSTEMS, LLC #k/a
DELPHI CORPORATION**

27. Plaintiffs repeat paragraphs one through twenty above.

28. Upon information and belief, Delphi, by and through its agents, servants or employees, was negligent in its maintenance of the sidewalk and sidewalk area located at 4238 Ridge Lea Road, Amherst, Erie County, New York.

29. Upon information and belief, the negligence of Delphi caused or contributed to the injuries and damages suffered by Mr. Duxbury.

**FOR A CAUSE OF ACTION
ON BEHALF OF CAROL DUXBURY**

30. Plaintiffs repeat paragraphs one through twenty above.

31. At all times herein relevant, Carol Duxbury was and continues to be the wife of Curtis J. Duxbury.

32. As a result of the injuries which he suffered, Mr. Duxbury has been disabled from performing the services formerly performed for Carol Duxbury and, upon information and belief, will continue to be so disabled through the future.

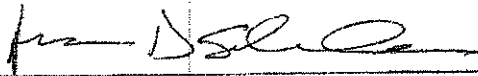
33. Mrs. Duxbury has been deprived and, upon information and belief, will continue to be deprived of Mr. Duxbury's society, companionship and services into the future.

34. Upon information and belief, Mrs. Duxbury's loss of her husband's society, companionship and services will be permanent all to her damage in the sum which exceeds the jurisdictional limitation of all lower Courts which would otherwise have jurisdiction of this action.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and/or severally, for compensatory damages in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction of this matter, together with the costs and disbursements of this suit.

Dated: Buffalo, New York
October 3, 2011

Respectfully submitted,



Duane D. Schoonmaker, Esq., of Counsel
GRECO TRAPP PLLC
Attorneys for Plaintiffs
1700 Rand Building
14 Lafayette Square
Buffalo, New York 14203
Telephone No.: (716) 856-5800

STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

CURTIS J. DUXBURY
CAROL DUXBURY
2359 Harding Avenue
Wilson, New York 14172

Plaintiffs

VS.

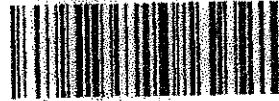
FIRST AMHERST DEVELOPMENT GROUP, LLC
4508 Main Street
Snyder, New York 14226

RIDGE LEA ASSOCIATES LLC
4508 Main Street
Snyder, New York 14226

DELPHI AUTOMOTIVE SYSTEMS, LLC f/k/a
DELPHI CORPORATION
200 Upper Mountain Road
Lockport, New York 14094

Defendants

SUMMONS



145259

10/05/2011 12:19:23 PM

Receipt # 201195018

2 Pages

Wayne F. Jagow, Niagara County Clerk

Clerk: PC

ORIGINAL FILED

OCT - 5 2011

WAYNE F. JAGOW
NIAGARA COUNTY CLERK

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the Complaint in this action, and to serve a copy of your Answer on the undersigned attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any manner other than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Niagara County is designated as the place of trial based upon the residence of the Plaintiffs.

Dated: Buffalo, New York
October 3, 2011

Respectfully submitted,



Duane D. Schoonmaker, Esq., of Counsel
GRECO TRAPP, PLLC
Attorneys for Plaintiffs
1700 Rand Building
14 Lafayette Square
Buffalo, New York 14203
(716) 856-5800